

## BEFORE THE DIVISION OF WATER RIGHTS

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| <p>In The Matter Of:</p> <p><b>Sage Bottom Ditch Company</b><br/><b>Attn: Bruce Alder, President</b></p> <p><b>RESPONDENT</b></p> | <p><b>MEASURING DEVICE AND CONTROL<br/>STRUCTURE<br/>NOTICE</b></p> <p>SEAA No. 1481 (Revised)<br/>DISTRIBUTION ACCOUNT: 103297<br/>WATER RIGHTS: 35-5667, 35-5668, 35-<br/>8563, 35-8642</p> |
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### I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 (2008), and in accordance with UTAH ADMIN. CODE R. 655-15 (2008).

U.C.A. § 73-5-4 states in part :

- (1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:*
  - (a) each location where water is diverted from a source; and*
  - (b) any other location required by the state engineer.*
- (2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.*
- (3) The state engineer shall approve the design of:*
  - (a) the measuring device; and*
  - (b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...*
- (6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:*
  - (a) forbid the use of water until the user complies with the state engineer's requirement; and*
  - (b) commence enforcement proceedings authorized by Section 73-2-25.*

### II. STATEMENT OF FACTS

1. Respondent diverts water from the Weber River and/or tributaries of the Weber River for irrigation use within the Sage Bottom Ditch located Southwest of Oakley, Utah.
2. Water diverted and/or delivered into the Sage Bottom Ditch is regulated under the Weber River Distribution System operated under the direction of the State Engineer and/or his duly appointed Water Commissioner.
3. An on-site field inspection and meeting with Sage Bottom Ditch Company and landowner and landowner's consultant was held on April 15, 2014.

4. An existing Parshall flume and a control structure enable regulation of water diverted from the Weber River but not the tributary stream (Marsh Creek), which enters Sage Bottom Ditch if not actively turned out of the ditch and into the river. Marsh Creek flows unmeasured and uncontrolled into the Sage Bottom Ditch.
5. Diversions/deliveries into the Sage Bottom Ditch must be regulated and reported by the water commissioner.
6. The USGS quadrangle map shows Marsh Creek flowing into Sage Bottom Ditch and also flowing to the Weber River upstream or above the Sage Bottom Ditch diversion. If Marsh Creek flowed directly to the Weber River instead of Sage Bottom Ditch, Sage Bottom Ditch could be properly measured and regulated.
7. At the field inspection with the company in April, it was agreed that if Marsh Creek is prevented from flowing through the culvert at the head of the ditch (by inserting flash boards at the head of the culvert) then Marsh Creek could be forced out of Sage Bottom Ditch and into the Weber River with little or no stream alteration whatsoever. This operating scenario is necessary if too much water is in the ditch when the river diversion is closed.
8. The water commissioner and the company must be able to measure, regulate and control the water flowing into the Sage Bottom Ditch, regardless whether it enters the ditch from Marsh Creek or the Weber River.

### III. ACTIONS REQUIRED

1. Any and all necessary flow control structures must be properly installed and maintained in good working condition by the Sage Bottom Ditch Company. This is important to enable the water commissioner to regulate the quantity of water flowing into Sage Bottom Ditch.
2. A measuring device must be installed and maintained in good working condition to enable a measurement of all water flowing into or diverted into Sage Bottom Ditch from both Marsh Creek and the Weber River.
3. The flow control structures and measuring device must be reliable, safe, and accessible to the water commissioner and others who may be authorized by the commissioner to regulate the flow.
4. At the field meeting with water users in April, the company's operating plan was basically discussed and approved to (a) amend or change the design of the flow control structure on Marsh Creek and (b) install a new measuring device, outlined as follows:
  - a. The landowner agreed to allow Respondent to construct a steel framework with removable flashboards attached to the upstream end of the steel CMP culvert on Marsh Creek where it enters the head of Sage Bottom Ditch. These flashboards and steel structure are required to enable Respondent or the water commissioner to turn Marsh Creek flow into the Weber River whenever too much water is diverted into Sage Bottom Ditch when the Weber River diversion gate is closed. Such operation was necessary in 2013 when the Marsh Creek inflow exceeded the flow rights of Sage Bottom Ditch. This work is required and should be coordinated with landowner for any vehicle access necessary during construction.

- b. A new measuring device must be installed on Sage Bottom Ditch located somewhere downstream from the confluence of Marsh Creek and Sage Bottom Ditch and somewhere upstream from the service road near Woodenshoe Lane. The company originally planned to install a weir at the downstream end of this section of ditch and concluded it would be better to install it upstream where there is more slope in the ditch, which was agreed on. The measuring device design consists of a concrete rectangular weir structure with a steel weir plate. It will include an 18-inch diameter stilling well. The measuring device and stilling well location will be cleared of trees or other structures that may impair the use of solar power to record the flow measurement at the weir location.
5. **The headgate "flashboard" control structure and the new measuring device (including the stilling well) must be complete and functional on or before May 1, 2015.**

#### IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (5).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25 (2008).
4. If determined to be in violation an Order, the Respondent may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26 (2005), including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and replacement of up to 200% of water diverted without right. In addition, the Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation."

#### V. FURTHER INFORMATION

If the Respondent has any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

Ross Hansen  
*Regional Engineer*  
*Western Region*  
*Utah Division of Water Rights*  
*Weber Office*  
*(801) 538-7240*

Ben Anderson  
*Water Rights Distribution Engineer*  
*Utah Division of Water Rights*  
*(801) 538-7240*  
*1594 W North Temple Ste 220*  
*P.O. Box 166300*  
*Salt Lake City, UT 84104-6300*

Dated this 25<sup>th</sup> day of September, 2014



Ben Anderson, P.E.  
Distribution Engineer  
Utah Division of Water Rights

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 25<sup>th</sup> day of September, 2014, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**Sage Bottom Ditch Company**  
**Bruce Alder, President**  
**1835 Lakeline Drive**  
**Salt Lake City, UT 84109**

USPS TRACKING # **9114 9011 2308 6069 1223 91**  
& CUSTOMER  
RECEIPT For Tracking or inquiries go to USPS.com  
or call 1-800-222-1811.



Kelly Horne  
Division of Water Rights  
Field Services Secretary

cc: Ross Hansen, Regional Engineer  
Cole Panter, Weber River Water Commissioner  
Alene Marchant, Deputy Commissioner